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WASHINGTON STATE
SUPREME COURT

No. 94269-2

SUPREME COURT OF THE STATE OF WASHINGTON

King County Superior Court, State of Washington
Cause No. 16-2-
18527-4 SEA

EL CENTRO DE LA RAZA, a Washington non-profit corporation; LEAGUE OF WOMEN VOTERS OF WASHINGTON, a Washington non-profit corporation;

WASHINGTON ASSOCIATION OF SCHOOL ADMINISTRATORS, a Washington non-profit corporation; WASHINGTON EDUCATION ASSOCIATION, a Washington non-profit corporation; INTERNATIONAL UNION OF OPERATING ENGINEERS 609; AEROSPACE MACHINISTS UNION, IAM & AW DL 751; WASHINGTON STATE LABOR COUNCIL, AFL-CIO; UNITED FOOD AND COMMERCIAL WORKERS UNION 21; WASHINGTON FEDERATION OF STATE EMPLOYEES; AMERICAN FEDERATION OF TEACHERS WASHINGTON; TEAMSTERS JOINT COUNCIL NO. 28; WAYNE AU, PH.D, on his own behalf and on behalf of his minor child; PAT BRAMAN, on her own behalf; and DONNA BOYER, on her own behalf and on behalf of her minor children,

Appellants,

vs.

STATE OF WASHINGTON

Respondent.

AMICI CURIAE BRIEF OF JOHN S. ARCHER,
PHYLLIS C. FRANK, MS, AND JEFFREY VINCENT

TABLE OF CONTENTS

	Page
I. IDENTITY AND INTEREST OF AMICI CURIAE.....	1
II. ISSUES.....	3
III. ARGUMENT.....	3
A. The Commission And School Districts Approved by the SBE Do Not Violate Article III, Section 22, Because the Superintendent’s Supervisory Role Does Not Re- quire Direct Control Of The Public Schools.....	3
B. The Operation of Public Charter Schools by Non-profit Organizations Does Not Constitute an Unconstitutional Delegation of State Authority Because the Non-profit Organizations Do Not Define the Program of Basic Ed- ucation.....	13
IV. CONCLUSION.....	19

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Bowie v. Washington Department of Revenue</i> , 171Wn.2d 1, 11, 248 P.3d 504 (2011)	12
<i>Champion v. Shoreline School Dist. No.412 of King Cy</i> , 81Wn.2d 672, 676, 504 P.2d 304(1924)	15, 16
<i>Harnon v. Department of Social and Health Services</i> , 134 Wn.2d 523, 951 P.2d 770 91998	17
<i>In re Marriage of Kovace</i> , 121 Wn.2d 795,804, 854 P.2d 629 (1993)	17
<i>Myers v. United States</i> , 272 U.S. 52, 47 S.Ct. 21, 71 L.Ed. 160 (1926)	4, 6
<i>Perez-Farias v .Global Horizons, Inc.</i> , 175 Wn.2d 518, 286 P.3d 46 (2012)	18
<i>Printz v. United States</i> , 521 U.S. 898, 117 S.Ct. 2365, 138 L.Ed. 914 (1997)	4, 5
<i>Spokane County Health Dist. v. Brockett</i> , 120 Wn.2d 140, 839 P (1992)	18
<i>State ex. Rel.Todd v. Yelle</i> , 7 Wn.2d 443 (1941)	5
Statutes	
Basic Education Act	17, 18
Brady Handgun Violence Prevention Act	4
Charter Schools Act.....	3
Initiative 1240, § 204(2)(b).....	14
Laws of 1885-86, Title I.....	6, 7, 8

Laws of 1885-86, Title II	7
Laws of 1885-86, Title III	7, 8
Laws of 1889-90, ch. XII, Title I	9
Laws of 1889-90, ch. XII, Title II	9, 10
Laws of 1889-90, ch. XII, Title III	10, 11
Laws of 1889-90, ch. XII, Title IV	10, 11
Laws of 2016, ch. 241, § 104(2)(b)	14
RCW 28A	16
RCW 28A.98	16
RCA 28A.150	13, 14, 15, 16
RCW 28A.655.070	13, 14
RCW 28A.710	<i>passim</i>
RCW 28A.900.040	16, 17, 19
Other Authorities	
United States Constitution, Article II	4
Walter W. Skeat, <i>An Etymological Dictionary of the English Language</i> (1884)	13
Washington Constitution Article III, Section 22	<i>passim</i>
Washington Constitution Article IX, section 1	14
Washington Constitution Article IX, Section 2	3, 13, 19
Washington Constitution Article XXIII, section 5	5
Washington Constitution Article XXIII, Section 25	5

I. IDENTITY AND INTEREST OF AMICI CURIAE

The amici curiae are John S. Archer, Phyllis C. Frank, MS, and Jeffrey Vincent.

John S. Archer was the Director of Basic Education Oversight for the Washington State Board of Education (“SBE”) prior to his retirement in 2016. In this capacity, Mr. Archer was deeply involved in fulfilling the SBE’s responsibilities under RCW Ch. 28A.710 (the Act). A school district board of directors may authorize a charter public school but only after receiving approval from the SBE. Mr. Archer, in consultation with members and counsel, was responsible for drafting regulations governing the approval process. Mr. Archer also drafted regulations establishing a statewide formula for an authorizer oversight fee. The SBE granted the Spokane School District’s application to authorize charter schools. Mr. Archer developed the application used by the District, and led the five person team that evaluated the District’s application. After the District’s application was granted, Mr. Archer conducted oversight of the performance of the Spokane School District. Mr. Archer also served as a member of the Washington State Charter School Commission as the designee of the chair of the SBE.

Phyllis C. Frank, MS was a public school speech/language pathologist and staff member of the Yakima Hearing and Speech Center for 30 years. She served 12 years on the Yakima School Board and was president of the Washington State School Directors in 1995. She was a member of the SBE from 1996 to 2013, and served as vice-chair of the

SBE. During this time the charter school law was enacted and the SBE considered and adopted regulations governing charter schools and voted approval of the first charter school application. Ms. Frank represented the SBE on two major committees, Opportunity to Learn and Meaningful High School Diploma. She served as co-chair of the statewide Goals 2000 committee and chaired the Professional Education Standards Board before it was established separately.

Jeffrey Vincent was a member of the SBE from 2006 to 2013. The last three and one half years he served as chair of the SBE. Mr. Vincent is currently member of the Washington Roundtable where he serves as Chair of the Roundtable's Education Committee and as Chair of Partnership for Learning. The Washington Roundtable is a non-profit public policy organization whose members include senior executives from many of the state's largest private sector employers. The Roundtable focuses on three core subjects of critical and common importance across the business community and the state at large: education, economic climate and infrastructure.

All amici are former members or senior staff of the SBE. All favor public charter schools as a way to reach underserved students. Amici also have a particular interest in governance of the public schools system. The SBE works with the Superintendent of Public Instruction ("Superintendent"), but each state agency has different responsibilities. Thus, amici have a special interest in the interaction of the SBE and the Superintendent with charter schools. Appellants' claims call the relationship into question.

The amici have a strong interest in ensuring that the governance issues are correctly resolved.

II. ISSUES

1. Article III, Section 22 of the Washington Constitution provides that the Superintendent shall have supervision over all matters pertaining to public schools and shall perform such specific duties as prescribed by law. Does the Act's grant of authority to the Commission and school districts, approved by the SBE, to authorize and monitor charter schools violate Article III, Section 22?

2. RCW Ch. 28A.710, authorizes the Washington State Charter School Commission ("Commission") and school districts approved by the SBE to approve applications from non-profit organizations to operate charter public schools. Do these statutes violate Article IX Section 2 of the Washington Constitution by improperly delegating authority to non-profit organizations to define the program of basic education that will be taught in the charter schools?

III. ARGUMENT

A. The Commission And School Districts Approved by the SBE Do Not Violate Article III, Section 22, Because the Superintendent's Supervisory Role Does Not Require Direct Control Of The Public Schools

Appellants claim that the Charter Schools Act violates Article III, Section 22 of the Washington Constitution which provides: "The superin-

tendent of public instruction shall have supervision over all matters pertaining to public schools, and shall perform such specific duties as may be prescribed by law. He shall receive an annual salary of twenty-five hundred dollars, which may be increased by law[.]” App. Br. at 41-44.

There is little case law on this constitutional provision. However, beyond case law, another important tool for interpreting Article III, section 22 is the legislative construction of the provision. One form of legislative construction is the contemporaneous construction of the provision by the first legislature after the constitution was adopted. In *Myers v. United States*, 272 U.S. 52, 47 S.Ct. 21, 71 L.Ed. 160 (1926) the Court was interpreting the President’s power under Article II, of the United States Constitution. The Court relied heavily on the canon of contemporaneous construction stating: “This Court has repeatedly laid down the principle that a contemporaneous legislative exposition of the Constitution when the founders of our Government and framers of our Constitution were actively participating in public affairs, acquiesced in for a long-term of years, fixes the construction to be given its provisions.” *Myers*, 272 U.S. at 175.

Although *Myers* was decided in 1926, the canon of contemporaneous construction is still part of the Courts jurisprudence. In *Printz v. United States*, 521 U.S. 898, 117 S.Ct. 2365, 138 L.Ed. 914 (1997) the Court considered the constitutionality of the Brady Handgun Violence

Prevention Act which required local law enforcement officials to perform background and other related tasks. The government argued that the act was valid because “the earliest Congresses enacted statutes that required the participation of state officials in the implementation of federal laws.” *Printz*, 521 U.S. at 905 (internal punctuation omitted). According to the Court, the “Government’s contention demands our careful consideration, since early congressional enactments provide contemporaneous and weighty evidence’ of the Constitution’s meaning,” *Id.* (internal punctuation omitted).

Washington also applies the canon of legislative construction. In *State ex. Rel. Todd v. Yelle*, 7 Wn.2d 443, 110P.2d 162 (1941), the court considered whether a statute authorizing the state to pay certain expenses of legislators violated Article XXIII, section 5, of the Washington Constitution. Article XXIII, section 25, provided that legislators receive five dollars a day and ten cents a mile. In upholding the statute the court stated that “a legislative interpretation extending over a period in excess of half a century should have great weight with the court.” *Yelle*, 7 Wn.2d at 457. “The legislative interpretation of this state for more than half a century has been to the effect that the allowance to public officers of reimbursement for sums necessarily expended while away from their places of residence in the service of the state, is constitutionally permissible.” *Id.*

The canon of legislative construction is more important if it is contemporaneous because “[the legislature] was composed of representatives and senators, a considerable number of those who had been members of the Convention that framed the Constitution and presented it for ratification. It was the [the legislature] that launched the Government.” *Meyer*, 272 U.S. at 174.

Appellants’ complaint is that RCW 28A.710.040(5) and RCW 28A.710.070(2) grant supervision of charter schools to the Commission and school districts approved by the SBE instead of the Superintendent, and that this delegation of authority violates Article III, section 22. The contemporaneous construction of this provision by the first legislature to meet after statehood refutes Appellants’ claim.

Prior to statehood the law provided that a territorial “superintendent of public instruction shall be appointed by the Governor[.]” Laws of 1885-86, Title I, § 1. The law stated that the “superintendent shall have *general supervision of public instruction*, especially of the county and district school officers and the public schools of the territory, and shall report to the governor biennially[.]” Laws of 1885-86, Title I, § 2. (Emphasis added). The report was a statement of the conditions in the territorial university and public schools with statistical tables including the number of

schools and attendance. *Id.* The territorial superintendent was also responsible for “printing and-transmitting of such blanks, forms, rules and regulations for the use and government of the public schools, school officers and teachers, as the board of education may authorize[.]” Laws of 1885-86, Title I, § 3. The superintendent was also required to visit the common schools in the various counties and to hold a territorial teachers institute at least once a year. Laws of 1885-86, Title I, § 4, 5. The superintendent was also the “ex-officio president of the board of education.” Laws of 1885-86, Title I, § 7.

Prior to statehood there was also a board of education appointed by the governor. Laws of 1885-86, Title II, § 1. The board had the power to adopt a uniform series of text books; prescribe rules for the general government of the public schools; have general supervision over territorial normal schools; and sit as a board of examination to grant territorial certificates and diplomas. 1885-86, Title II, § 12. Although the superintendent was a member of the board, he had no authority to direct the actions of the board.

The law also provided for local education officials. There was a county superintendent of common schools elected in each county. 1885-86, Title III, § 17. Among the duties of the county superintendent was to “enforce the course of studies adopted by the board of education, and

report to the superintendent of public instruction, the refusal of any [school district] board of directors to [enforce the rules of the board of education and provide text books approved by the board].” Laws of 1885-86, Title III, § 19. The county superintendent was also required to report to the territorial superintendent statistical data such as the number school age children in the county. Laws of 1885-86, Title III, § 19. If the county superintendent failed to make a full report he or she forfeited fifty dollars from his salary. Laws of 1885-86, Title III, § 20. The territorial superintendent had no authority to direct the actions of the county superintendent.

Prior to statehood the law provided that the “superintendent shall have *general supervision of public instruction*, especially of the county and district school officers and the public schools of the territory[.]” 1885-86, Title I, § 2. However, as a practical matter the superintendent authority was not substantive. The main task was to gather information and prepare a report for the governor. In contrast, the territorial board of education had the power to approve text books and adopt rules for the general government of the public schools.

After the constitution was adopted the legislature established a state public schools system. Under Appellants’ theory, given the provision in article III, section 22 that the superintendent “shall have supervision

over all matters pertaining to public schools” one would expect the law to grant the superintendent substantial authority to shape the new school system. It did not.

Under the new law: “The administration of the common school system shall be entrusted to the state superintendent of public instruction, a state board of education, county superintendents of common schools, boards of directors, and a district clerk for each district.” Laws of 1889-90, ch. XII, Title I, § 2.

The law provided for the election of a superintendent of public instruction and provided that “he shall have supervision over all matters pertaining to the common schools of the state.” Laws of 1889-90, ch. XII, Title II, § 3. Similar to territorial superintendent, the state superintendent was required to biennially report to the governor about the general condition of the common schools. The report also required the superintendent to include a plan to for the management and improvement of the public schools. *Id.* Also similar to the territorial law, the superintendent was required to print and distribute blanks, forms registers, and books necessary to discharge the duties of the county superintendents, teachers, and others charged with administration of the law; to travel to the common schools in the state; and call a convention of county superintendents. Laws of 1889-

90, ch. XII, Title II § 3. The superintendent was also made an ex-officio member and president of the state board of education. *Id.*

The superintendent was assigned three other duties. He or she was to “apportion the state common school funds, subject to apportionment, among the several counties of the state [and] certify said apportionment to the state auditor[.]” *Id.* The superintendent also “certify[ied] to the county superintendents of schools of each county, the amount apportioned to that county.” *Id.*

The superintendent was also given the authority to “decide all points which may be submitted to him in writing by any school officer, teacher or person in this state, on appeal from the decision of the county superintendents of schools, and his decision shall be final unless set aside by a court of competent jurisdiction.” Laws of 1889-90, ch. XII, Title II § 4.

There was another judicial function. Any person aggrieved by a decision or order of the county superintendent or the county board of examiners could appeal the decision to the state superintendent. Laws of 1889-90, ch. XII, Title IV, § 16.

The law authorized the governor to appoint, with the consent of the senate, four individuals, who, along with the superintendent, made up the state board of education. Laws of 1889-90, ch. XII, Title III, § 6. Like the

territorial board, the state board had the power to adopt a uniform series of textbooks and sit as a board of examiners to grant state certificates and life diplomas. Laws of 1889-90, ch. XII, Title III, § 8. The state board was also empowered to “to prepare a course of study for the common schools, except graded schools, and to prescribe such rules for the general government of the common schools[.]” *Id.* Although the superintendent was president of the state board, he or she had no authority to direct the actions of the board.

The state system retained an elected county superintendent. Laws of 1889-90, ch. XII, Title IV, § 10. The county superintendent had the power to “to exercise a careful supervision over the schools of his county, and to see that all the provisions of this act are observed [and] enforce the course of study adopted by the board of education, and to enforce the rules and regulations required in the examination of teachers.” Laws of 1889-90, ch. XII, Title IV, § 11. The county superintendent was also required to make an annual report to the state superintendent. *Id.* The state superintendent had no authority to direct the actions of the county superintendent.

Appellants argue that article III, section 22 is violated because the Commission and school districts approved by the SBE oversee the operation of charter schools instead of the superintendent. App. Br. at. 42. But this is not how the framers viewed the concept of supervision. In the first

public school act after statehood, the substantive authority to operate the common schools was vested in the state board of education and the county superintendent. The superintendent's most important function appears to be gathering information from the counties to be used to file a report to the governor about the condition of the public schools and how they could be improved.

Under Appellants' theory, the whole structure of the public schools law adopted in 1889 would violate article III, section 22. This makes no sense. Supervision, as the word is used in article III, section 22, does not mean direct control over the public schools. In 1889, authority over the common schools was diverse.

Supervision as used in Article III, section 22 does not mean exercising control as Appellants suggest. In 1889 the Superintendent's most important function was to gather information about the common schools both by visiting them and receiving reports from the county superintendent. This information was used to prepare a report for the governor which included the Superintendent's plans for improving the common schools. This is consistent with an 1884 dictionary definition of "supervise." The court looks to dictionaries to determine the plain meaning of undefined terms. *Bowie v. Washington Department of Revenue*, 171 Wn.2d 1, 11, 248 P.3d 504 (2011). The Etymological Dictionary of the English Language

defines “supervise” as “to inspect, oversee.” Walter W. Skeat, *An Etymological Dictionary of the English Language* (1884) at 612. In gathering the information necessary for the report to the governor, the Superintendent was inspecting and overseeing the common schools. The Act does not violate Article III, section 22.

B. The Operation of Public Charter Schools by Non-profit Organizations Does Not Constitute an Unconstitutional Delegation of State Authority Because the Non-profit Organizations Do Not Define the Program of Basic Education

Appellants claim that the Act violates Article IX, Section 2, because it “improperly delegates the State’s duty to define basic education to the non-profit organizations that operate charter public schools.” App. Br. at 37. This argument fails because basic education is defined by statute.

The Act does not delegate the authority to define basic education to non-profit organizations. Appellants cite RCW 28A.710.040 and RCW 28A.710.130 to support this claim. App. Br. at 38. They do not. RCW 28A.710.040(2)(b) requires that a “charter school must...[p]rovide a program of basic education, that meets the goals in RCW 28A.150.210, including instruction in the essential academic learning requirements, and participate in the statewide student assessment system as developed under RCW 28A.655.070[.]” (Emphasis added.)

In 2016 the legislature amended RCW 28A.710.040(2)(b) to require charter schools to provide “a program of basic education.” RCW 28A.710.040(2)(b) as originally drafted in Initiative 1240 provided charter schools must: “Provide basic education, as provided in RCW 28A.150.210, including instruction in the essential academic learning requirements and participate in the statewide student assessment system as developed under RCW 28A.655.070[.]” Initiative 1240, § 204(2)(b).

Under the amendment: “~~((All))~~ A charter school~~((s))~~ must:… Provide a program of basic education, ~~((as provided))~~ that meets the goals in RCW 28A.150.210, including instruction in the essential academic learning requirements, and participate in the statewide student assessment system as developed under RCW 28A.655.070[.]” Laws of 2016, ch. 241, § 104(2)(b). After the 2016 amendment, RCW 28A.710.040(2)(b) requires that charter schools must provide “a program of basic education.” This is a significant change because the phrase “program of basic education” is a defined term.

RCW 28A.710.200 states that: “The program of basic education established under this chapter is deemed by the legislature to comply with the requirements of Article IX, section 1 of the state Constitution[.]” RCW 28A.150.200(2)(a) states: “The legislature defines the program of basic education under this chapter [to include the] instructional program of basic

education the minimum components of which are described in RCW 28A.150.220[.]” RCW 28A.150.203(8) provides that: “Instructional program of basic education” means the minimum program required to be provided by school districts and includes instructional hour requirements and other components under RCW 28A.150.220[.]” RCW 28A.150.220 sets out the minimum instructional requirements for a program of basic education.

When the legislature “use[s] a word in a statute in one sense and with one meaning, and subsequently uses the same word in legislating on the same subject-matter, it will be understood as using it in the same sense[.]” *Champion v. Shoreline School Dist. No.412 of King Cy*, 81 Wn.2d 672, 676, 504 P.2d 304(1924). This rule controls “unless there be something in the context or the nature of things to indicate that it intended a different meaning thereby.” *Id.*

By amending RCW 28A.710.040(2)(b) to require “a program of basic education,” the legislature requires charter schools to offer the minimum instructional requirements described in RCW 28A.150.220. Thus, basic education is defined by statute, not the non-profit organizations operating charter schools.

Appellants offer three arguments why the phrase “a program of basic education” in RCW 28A.710.040(2)(b) should not be read *in pari materia*.

First, Appellants argue that the Basic Education Act’s definition of “program of basic education” is limited by its own terms to chapter 28A.150, citing RCW 28A.150.200(2) and RCW 28A.150.203. App. Br. at 28. The legislature expressly rejected Appellants’ narrow construction of *in pari materia* when it adopted RCW 28A.900.040 which provides: “The provisions of *this title, Title 28A RCW, shall be construed in pari materia even though as a matter of prior legislative history they were not originally enacted in the same statute.*” (Emphasis added) In *Champion*, the court applied RCW 28A.98.040, the predecessor of RCW 28A.900.040, to conclude that whenever the legislature “used the term ‘certificated employee’ or ‘certificated personnel’ in the school code, used it with reference to persons who hold teaching certificates.” *Champion*, 81 Wn.2d at 686. According to the court, “[n]ot only does the common rule of statutory construction dictate that statutes *in pari materia* should be read together and harmonized, but the legislature in this case made express provision for such construction [in] RCW 28A.98.040[.]” *Id.*

Second, Appellants argue that *in pari materia* does not apply if the statutes meaning is unambiguous. App. Br. at 28. It is true that “a statute

which is clear on its face is not subject to judicial interpretation[.]” *In re Marriage of Kovace*, 121 Wn.2d 795,804, 854 P.2d 629 (1993). “If a statute is ambiguous, resort to the tools of statutory construction is appropriate.” *Harnon v. Department of Social and Health Services*, 134 Wn.2d 523, 530, 951 P.2d 770 91998). An “ambiguity will be deemed to exist if the statute is subject to more than one reasonable interpretation[.]” *Kovace*, 121 Wn.2d at 804.

Appellants’ argument fails for two reasons. First, the application of *in pari materia* is not simply based on the court’s rules of statutory construction. The application of the rule is commanded by the legislature in RCW 28A.900.040. Second, under Appellants’ theory, there is only one reasonable interpretation of RCW 28A.710.040(2)(b). But the Appellants never explain the meaning of the statute. One interpretation is that the phrase “program of basic education” refers to the phrase defined in the Basic Education Act. The other interpretation is not clear. Appellants explain what the phrase does not mean, but they do not explain what it does mean. Assuming Appellants have an alternate interpretation of RCW 28A.710.040(2)(b), the statute is ambiguous. If the statute is unambiguous, it is because the “program of basic education” is a defined term.

Third, Appellants argue that the requirement in RCW 28A.710.040(2)(b) that the program of basic education include instruction

in the essential learning requirements (EALR's) would be rendered superfluous because the phrase "program of basic education" in the Basic Education Act also requires instruction in the EALR's. App. Br. at 28-29. The problem with this argument is that if "a program of basic education" in RCW 28A.710.040(2)(b) does not adopt the statutory definition, it renders superfluous the words "a program of" in the 2016 amendment to RCW 28A.710.040(2)(b). "Legislature is presumed not to pass meaningless legislation, and in enacting an amending statute, a presumption exists that a change was intended." *Spokane County Health Dist. v. Brockett*, 120 Wn.2d 140, 154, 839 P.2d 324 (1992).

In some cases the canon of construction regarding superfluous words is not helpful. For example, in *Perez-Farias v. Global Horizons, Inc.*, 175 Wn.2d 518, 286 P.3d 46 (2012) the court concluded that each side of the argument would render some of the language in the statute superfluous. The court said: "Generally, we interpret statutes so that all language is given effect with no portion rendered meaningless or superfluous. Under this maxim, both readings advanced by the parties are unsatisfying." *Perez-Farias*, 175 Wn.2d at 526. For this reason, the court applied a different canon of construction to interpret the statute.

Similarly, here the canon of superfluous language is not helpful. The appropriate canon of construction is *in paria materia*. The legislature

mandated its use in RCW 28A.900.040 and the canon is also appropriate under this court's decision.

The Court should reject Appellants' claim that the Act violates Article IX by delegating the power to define a basic education to the non-profit organizations that operate charter schools.

IV. CONCLUSION

The Court should rule that the Act's grant of authority to the Commission and school districts, approved by the SBE, to authorize and monitor charter schools does not violate Article III, Section 22, and that the Act does not involve an improper delegation to non-profit organizations to define basic education in violation of Article IX, Section 2.

Dated: October 2, 2017.

s/William B. Collins
William B. Collins (WSBA No. 785)
wbcollins@comcast.net
3905 Lakehills Drive SE
Olympia, WA 98501
Telephone: +1-360-943-7534

CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing *Amici Curiae* Brief of John S. Archer, Phyllis C. Frank, MS, and Jeffrey Vincent to be served on the below counsel for Appellants and for Respondent State of Washington via the ecf system:

Paul J. Lawrence
Jessica A. Skelton
Jamie L. Lisagor
Pacifica Law Group LLP
1191 Second Ave., Suite 2000
Seattle, WA 98101-3404

Rebecca Glasgow
David A. Stolier
Aileen B. Miller
Office ID 91087
1125 Washington Street SE
PO Box 40100
Olympia, WA 98504-0100

Robert M. McKenna
Orrick, Herrington & Sutcliffe LLP
701 5th Ave., Suite 5600
Seattle, WA 98104

Dated October 2, 2017.

s/William B. Collins
William B. Collins

AN
ETYMOLOGICAL DICTIONARY

OF THE
ENGLISH LANGUAGE.

BY THE
REV. WALTER W. SKEAT, M.A.

ELKINGTON AND BOSWORTH PROFESSOR OF ANGLO-SAXON
IN THE UNIVERSITY OF CAMBRIDGE.

SECOND EDITION, REVISED AND CORRECTED.

'Step after step the ladder is ascended.'

GEORGE HERBERT, *Jacula Prudentum.*

'Labour with what zeal we will,
Something still remains undone.'

LONGFELLOW, *Birds of Passage.*

Oxford:

AT THE CLARENDON PRESS.

M DCCC LXXXIV.

1884

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SUPERSTRUCTURE, the upper part of a building. (L.) In some places, as in Amsterdam, the foundation costs more than the super-structure; Howell, Famil. Letters, vol. i. sect. 2. let. 15, May 1, 1672. From Super- and Structure.

SUPERVENE, to occur or happen in consequence of, to occur, happen. (L.) 'Supervening follies;' Hp. Taylor, vol. iii. ser. 4 (K.) - Lat. *supervenire*, to come upon or over, to come upon, to follow; pp. *superventus*. - Lat. *super*, over, upon, near; and *venire*, to come, cognate with E. *come*. See Super- and Venture or Come. Der. *supervent-ion*, regularly formed from the pp. *superventus*.

SUPERVISE, to inspect, oversee. (L.) In Shak. L. L. L. iv. 2. 125. - Lat. *super*, above; and *visere*, to survey, formed from *vis-um*, supine of *videre*, to see. See Super- and Visit or Vision. Der. *superwise*, sb., Hamlet, v. 2. 23; *superwis-er*, Oth. iii. 3. 395 (First Quarto); *superwis-ion*, *ibid.* (Folio editions); *superwis-al*.

SUPINE, lying on one's back, lazy. (L.) Sir T. Browne has *supinily*, Vulg. Errors, b. i. c. 5, § 3. 'Supine felicity;' Dryden, Astraea, 107. - Lat. *supinus*, backward, lying on one's back; extended, with suffix *-inus*, from *sup*, orig. form of *sub*, under, below; hence, downward. Cf. *sup-er*, from the same source. So also Gk. *ὑπῆρος*, bent backwards, backward, lying on one's back, from *ὑπό*, under. See Sub-. Der. *supine*, sb., as a grammatical term, Lat. *supinum*, of which the applied sense is not very obvious; *supine-ly*, *supine-ness*; also *supin-i-ty*, as above, prob. obsolete.

SUPPER, a meal at the close of a day. (F., -O. Low G.) M. E. *soper*, *super*; spelt *super*, Havelok, 1762. - O. F. *soper*, *super*, later *souper*, 'a supper;' Cot. It is the infin. mood used as a substantive, exactly as in the case of *dinner*. - O. F. *soper*, *super*, later *souper*, to sup, to eat a meal of bread *sopped* in gravy, &c. Cf. O. F. *sop*, *supe*, later *soupe*, 'a sop, a piece of bread in broth, also potage or broth, wherein there is store of sops or sippets;' Cot. - Low G. *supen*, to sup or sip up; Icel. *súpa*, Swed. *supa*, to sup; cognate with E. Sup, q. v.

SUPLANT, to take the place of, displace, undermine. (F., -L.) M. E. *suplant*, Gower, C. A. i. 239, l. 11. - F. *supplanter*, 'to supplant, root or trip up;' Cot. - Lat. *supplantare*, to put something under the sole of the foot, to trip up the heels, overthrow. - Lat. *sup-* (*sub*); and *planta*, the sole of the foot, also a plant. See Sub- and Plant. Der. *supplant-er*, spelt *supplantor* in Gower, C. A. i. 264, l. 6.

SUPPLE, pliant, lithe, fawning. (F., -L.) M. E. *souple*, Chaucer, C. T. 203; Rob. of Glouc. p. 223, l. 15. - F. *souple*, spelt *soupple* in Cotgrave, who explains it by 'supple, limber, tender, pliant.' - Lat. *supplicem*, acc. of *supplex*, in the old orig. sense of 'bending under,' hence submissive, which is the usual sense in Latin. The O. F. *souplier* also kept the orig. sense, though the classical Lat. *supplicare* only means to beseech; hence Cotgrave has 'souplesid, bent or bowed underneath, subject unto.' β. The formation of *souple* from *supplicem* is precisely like that of E. *double* from *duplicem*, *treble* from *triplicem*, *simple* from *simplicem*, &c. γ. The Lat. *supplex* is from *sup-* (*sub*) and the base *plac-*, as seen in *plec-t-ere*, to fold, which is from √PLAK, to plait, fold. See Sub- and Ply; also Supplicate. Der. *supple-ness*.

SUPPLEMENT, that which supplies, an addition. (F., -L.) In Skelton, Earl. of Laurell, 415. - F. *supplément*, 'a supplement;' Cot. - Lat. *supplementum*, a supplement, filling up. - Lat. *supple-re*, to fill up; with suffix *-men-tum*. - Lat. *sup-* (*sub*), up; and *plere*, to fill; see Supply. Der. *supplement-al*, *supplement-ar-y*.

SUPLIANT, entreating earnestly. (F., -L.) In Rich. II, v. 3. 75. - F. *suppliant*, 'suppliant;' Cot.; pres. pt. of *supplier*, 'humily to pray;' id. - Lat. *supplicare*, to supplicate; see Supplicate. Doublet, *suppliant*.

SUPPLICATE, to entreat. (L.) In Blount, ed. 1674; it seems to be quite a late word, though *supplication*, spelt *supplicacion*, is in Gower, C. A. iii. 348, l. 12, and *suppliant* in Shak. Complaint, 276. - Lat. *supplicat-us*, pp. of *supplicare*, to supplicate. - Lat. *supplic-*, stem of *supplex*, bending under or down, hence beseeching, suppliant; see Supply. Der. *supplic-ant*, from the stem of the pres. pt. of *supplicare*; *supplicat-or-y*; *supplicat-ion* (as above), from F. *supplication*, 'a supplication,' Cot., from Lat. acc. *supplicationem*. Also *suppliant*, q. v.

SUPPLY, to fill up a deficiency. (F., -L.) In Shak. Tw. Nt. i. 1. 38. Levinus (1570) spells it *supploy*, and Hulcot has *supploye*. - F. *suppléer*, 'to supply;' Cot. - Lat. *supplere*, to fill up. - Lat. *sup-* (*sub*), up; and *plere*, to fill; see Sub- and Plenary. Der. *supply*, sb., Hamlet, ii. 2. 24; and see *supple-ment*.

SUPPORT, to endure, sustain. (F., -L.) M. E. *supporten*, Wyclif, 2 Cor. xi. 1. - F. *supporter*, 'to support;' Cot. - Lat. *supportare*, to carry, bring, or convey to a place; in Low Lat., to endure, sustain. - Lat. *sup-* (*sub*), near; and *portare*, to carry; see Sub- and

Port (t). Der. *support*, sb., M. E. *support*, Gower, C. A. iii. 107, l. 11, from F. *support*, 'a support,' Cot.; *supporter*, *supportable*, *support-abil-y*.

SUPPOSE, to assume as true, imagine. (F., -L., and Gk.) M. E. *supposen*, Chaucer, C. T. 6368. - F. *supposer*, 'to suppose, to put, lay, or set under; to suborn, forge; also to suppose, imagine;' Cot. - F. *sup-*, prefix = Lat. *sup-* (*sub*), prefix, under; and F. *poser*, to place, put. Thus the orig. sense is 'to lay under, put under, hence to substitute, forge, counterfeit; all of which are senses of Lat. *ponere*. β. The F. *poser* is not from Lat. *ponere*, but from Gk. though it (with all its compounds) took up the senses of Lat. *ponere*. See further under *POSE*; and note Cotgrave's use of the verb to *suppone*, now obsolete. Der. *suppos-er*, *suppos-able*; but not *sup-position*, q. v.

SUPPOSITION, an assumption, thing supposed. (F., -L.) In Shak. Merch. Ven. i. 3. 18. - F. *supposition*, omitted by Cotgrave, but in use in the 14th cent. (Littre). - Lat. *suppositio*, acc. of *suppositus*, properly 'a substitution,' but extended in meaning according to the extension of meaning of the verb *supponere* (pp. *suppositus*) from which it is derived. - Lat. *sup-* (*sub*), under, near; and *ponere*, to place; see Sub- and Position. Der. *supposit-it-ion*, spurious, substituted, from Lat. *suppositicius*, formed with suffix *-it-ion* from *supposit-*, stem of pp. of *supponere*, of which one sense was 'to substitute.' Also *supposit-or-y*, as in 'suppositories' are used where the patient is weak; Sir T. Elyot, Castel of Helth, b. iii. c. 5, from Lat. *suppositorius*, that which is placed underneath.

SUPPRESS, to crush, keep in, retain, conceal. (L.) The instance of *suppressed*, cited by Rich. from Lydgate, Storie of Thebes, pt. ii, The Answer of Ethiocles, is not to the point; it is clearly an error for *surprised*. For the verb *suppress*, see Palsgrave. - Lat. *suppressus*, pp. of *supprimere*, to press under, suppress. - Lat. *sup-* (*sub*), under; and *primere*, to press; see Sub- and Press. Der. *suppressor*, Lat. *suppressor*; *suppression*, printed *suppression* in Sir T. More, p. 250 f, from F. *suppression*, 'suppression,' Cot., from Lat. acc. *suppressionem*. Also *suppress-ive*, a coined word.

SUPPURATE, to gather pus or matter underneath. (L.) In Minsheu, ed. 1627. - Lat. *suppuratus*, pp. of *suppurare*, to gather pus underneath. - Lat. *sup-* (*sub*), beneath; and *pur-*, stem of *pus*, matter; see Sub- and Pus. Der. *suppurat-ion*, from F. *suppuration*, 'a suppuration,' Cot., from Lat. acc. *suppurationem*; *suppurat-ive*, adj., from F. *suppuratif*, 'suppurative,' Cot., a coined word.

SUPRA-, prefix, above. (L.) Lat. *supra*, prefix; from *supra*, adv. and prep., short for *superá*, the orig. form, Lucretius, iv. 674; orig. abl. fem. of *superus*, adj., above. - Lat. *super*, above; see Super-, Sub-.

SUPRAMUNDANE, situate above the world. (L.) 'Supramundane cities;' Waterland, Works, i. 86 (R.); and in Blount, ed. 1674. A coined word; from *Supra-* and *Mundane*. ¶ Similarly formed is *supralapsarian*, antecedent to the fall, from *supra*, above, and *laps-um*, acc. of *laps-us*, a fall; with suffix *-arian*; see Lapse.

SUPREME, greatest, most excellent. (F., -L.) Accented *supreme*, Cor. iii. 1. 110; usually *suprême*, K. John, iii. 1. 155. - F. *supreme*, omitted by Cotgrave, but in use in the 16th cent. (Littre); now written *suprême*. - Lat. *suprémus*, supreme, highest. Put for *supra-inus**, formed with superl. suffix *-inus* (Aryan *-ya-mans*) from *supra*, short for *supera* (*supara**), a form cognate with Skt. *upara*, E. *upper*, a comparative form from *supa** = Skt. *upa*, represented in Lat. by *sub-*, under, though the orig. sense is *up*. Thus *supremus* answers to an Aryan type *s-upa-ra-ya-mans**, with both compar. and superl. affixes. See Sub- and Up. Der. *supreme-ly*; also *suprema-cy*, K. John, iii. 1. 156, from *suprematie* (Littre, not in Cotgrave), a word arbitrarily formed on the model of *primacy* (Low Lat. *primatus*) from *primatus*.

SUR- (1), prefix. (L.) Put for *sub-* before *r* following; see Sub- Only in *sur-reptitious* and *sur-rogate*.

SUR- (2), prefix. (F., -L.) F. *sur*, prep., contr. from Lat. *super*, upon, above. Exx. *sur-charge*, *sur-face*, &c.

SURCEASE, to cease, to cause to cease. (F., -L.) It is obvious from the usual spelling, that this word is popularly supposed to be allied to *cease*, with which it has no etymological connection. It is a monstrous corruption of *sursis* or *sursise*, and is etymologically allied to *supersede*. It was very likely misunderstood from the first, yet Fabyan spells the word with *s* for *c*, correctly. β. By which reason the kyngdome of Mercia *sursesead*, that had continued from their firste kyng; Fabyan, Chron. c. 171, § 5. β. But the real is really due to the sb. *surcease*, a delay, cessation, which was in use as a law-term, and prob. of some antiquity in this use, though I do not know where to find an early example. It occurs in Shak. Macb. i. 7. 4, and (according to Richardson) in Bacon, Of Church Governm. Nares cites an example from Danet's tr. of Comines (p. 10).

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